



ENVIRONMENTAL PROTECTION AGENCY

[FRL-9492-7]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement Agreement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by the American Forest & Paper Association, Inc. ("Petitioner") in the United States Court of Appeals for the District of Columbia: American Forest and Paper Association, Inc. v. EPA, No. 10-1284 (D.C. Cir.) for review of EPA's final rule entitled "Mandatory Reporting of Greenhouse Gases from Magnesium Production, Underground Coal Mines, Industrial Wastewater Treatment, and Industrial Waste Landfills", published at 75 FR 39,736 (July 12, 2010). Under the terms of the proposed settlement agreement, Petitioner would dismiss its claims if EPA signs a letter interpreting the rule in substantially similar format as proposed as it applies to Petitioner.

DATES: Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER PUBLICATION DATE].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2011-0904, online at www.regulations.gov (EPA's preferred method); by e-mail to oei.docket@epa.gov; by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday

through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Ragan Tate, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-7382; fax number (202) 564-5603; email address: tate.ragan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

On September 22, 2009, EPA finalized the first comprehensive Reporting program for greenhouse gases (“GHGs”) under the Clean Air Act (“CAA” or “the Act”). 75 FR 56,260 (October 30, 2009) (“2009 Final GHG Reporting Rule”). The 2009 Final GHG Reporting Rule requires reporting of greenhouse gas emissions from large sources and suppliers in the United States, and is intended to collect accurate and timely emissions data to inform future policy decisions. Under the rule, suppliers of fossil fuels or industrial greenhouse gases, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons or more per year of GHG emissions are required to submit annual reports to EPA. The rule became effective December 29, 2009. In proposing the 2009 Final GHG Reporting Rule, EPA proposed but did not finalize Subpart II “Industrial Wastewater Treatment” of the 2009 Rule. On June 28, 2010 EPA finalized an amendment to the 2009 Final GHG Reporting Rule, “Mandatory Reporting of Greenhouse Gases from Magnesium Production, Underground Coal Mines, Industrial

Wastewater Treatment, and Industrial Waste Landfills”, published at 75 FR 39,736 (July 12, 2010) (“Subpart II Rule.”).

The American Forest & Paper Association filed a petition for review in the DC Circuit challenging the Subpart II Rule (10-1284). The petition for review in the DC Circuit raises issues with the final requirements of the Subpart II Rule. Upon EPA's motion, on October 20, 2010, the court issued an order holding the case in abeyance pending the parties' settlement discussions.

Under the proposed settlement agreement being noticed today, the petition for review would be dismissed in its entirety if EPA signs a letter interpreting the rule in substantially similar format as proposed as it applies to Petitioner. Pursuant to the proposed settlement agreement, EPA would be issuing its letter interpreting the rule as it applies to petitioner with respect to monitoring and measurements at three locations at the effluent treatment basin at International Paper Company's Prattville Mill in Prattville, Alabama.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment submitted, that consent to this settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get A Copy Of the Settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2011-0904) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will

not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of

your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 8, 2011

Kevin McLean,
Acting Associate General Counsel.

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